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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

NO. 247

WILLIAM T. REID,

Petitioner,

versus

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR REHEARING IN RE WILLIAM T. REID APPLYING FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS, FIFTH CIRCUIT.

FRANK J. LOONEY,
Attorney for Petitioner.

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In this cause comes William T. Reid, petitioner here and defendant below and petitions this Honorable Court, to grant a rehearing on the petition for a Writ of Certiorari, filed in above numbered and entitled case, which said pe-

tition was denied on October 25, 1943, and shows the following reasons:

1.

The brief of the United States opposing the petition was incorrect in contending that the first question therein presented, was based on the time in which purported subversive remarks were made, whereas the reason given was based on the conflicting decision in Hall vs. United States 256 Fed. 748, 749, 750, wherein the court held that in a trial under "The Espionage Act,"

> "any evidence tending to show that the defendant had made threats against the President unconnected with the offences of which he was convicted became wholly immaterial to the issues then being tried. The introduction of this evidence would of necessity tend to create a false impression upon the minds of the jury, etc."

The section of the Espionage Act referred to is T. 50, section 33, U. S. Code.

In the appendix we print section 89, T. 18, U. S. Code, under which this defendant was indicted and respectfully suggest that the alleged threat against the President was made when the United States *was not at war* whereas T. 50, section 33, U. S. Code is only applicable, "when the United States *is at war.*" (Italics ours). Petitioner further shows that the Transcript of record discloses that the jury twice returned into Court to ask new instructions as to defendant's intent, T. 28, and 29. That the first time the Court said "It is not necessary that he have the intent to carry it out" and again, "It does not have to be made with the avowed purpose of carrying it out." The erroneous statement of the Court only tended to confirm the impression

created, "of necessity," upon the jurors' mind, by the inadmissible evidence.

2.

Petitioner shows that the brief of defendant filed in this Court, contained excerpts from the Congressional Record which the governments counsel introduced before the Supreme Court, although debates in Congress are not admissible in evidence to show the meaning of statutes.

Petitioner further shows that the fairness due to a defendant by a prosecutor would at least call for a complete transcript of the debate which in its entirety would not bear out the government's claim of the intent of Congress.

This debate appeared on pages 9377-9379 of the Congressional Record, 64th Congress, 1st. Session, Part 9.

Petitioner shows that the chairman of the committee did not say that "oral" threats were included in the statute, but, proven by the italicized words, that "the punishment for threats, either orally or by mail" was struck out, as to "the successors to the President."

There is no statement, direct or by inference that any "oral threat" was contained in the bill itself which the committee made "apply to the President alone." Further shows that at this point in the debate the chairman referred to "threatening letters x x x in the White House mail." Government brief, page 8.

All else that is quoted in that brief is merely argumentative, and refers to the general duty to protect the President.

Petitioner shows that in as much as the act was passed to protect President Wilson, alone, and his "successors" were stricken from the bill some question of the obsoleteness of this act might be raised. Petitioner shows that Governments counsel further quoted "a bad man can make a public threat, and put somebody else up to committing a crime against the Chief Executive, and that is where the harm comes." Petitioner shows that there is nothing in the act about inciting men to harm the President, and by no stretch of language or imagination can the word "threat" be broadened to include conspiracy of "inciting to crime," and that an indictment of "inciting persons to kill the President," would not be responsive to T. 18, Section 89, U. S. Code. Petitioner further shows that in the Congressional debate aforesaid repeated references were made to "threatening letters," one member going so far as to state, "this bill provides for the punishment *only* of those who *deposit;* (Italic ours) "for conveyance in the mail or for delivery from any post office or by any letter carrier, any letters, papers, writing, print, missive, or document containing any threat to take the life of or to inflict, bodly harm upon the President of the United States.

The use of the words "only" and "deposit" imply that this Congressman, at least, understood the act to apply to conveyed written or printed threats, and the word "otherwise" was to be construed by the rule of "ejusdem generis."

Wherefore, this Honorable court is requested to review the petition for Certiorari, the records and debates in Congress, and to grant a rehearing herein, and on reconsideration to grant the Writ of Certiorari prayed for and in a

definite manner declare the scope of Section 89 of T. 18, U. S. Code.

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Frank J. Looney,
Attorney for Petitioner.

I certify that this motion is made in good faith and not merely for the purpose of delay, this the 29th day of October, 1943.

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Frank J. Looney,
Attorney for Petitioner.